

SUPPLEMENTAL INFORMATION #1

For Planning Commission Agenda of: September 5, 2019

- Consent Agenda Item
- Continued Hearing Item
- Public Hearing Item #F-14
- Department Report
- Old Business

Re: **Mermaid Spring Estate, LLC Conditional Use Permit**
Application Number: 11102
Case Number: CUP16-149
Assessor's Parcel Number (APN): 216-025-009 and 216-025-016
Address/Location: 8786 Bell Springs Road, New Harris area

Attached for the Planning Commission's record and review is (are) the following supplementary information item(s):

1. Email chain dated August 19, 2019 through August 23, 2019 from Kalyn Bocast of the California Department of Fish and Wildlife (CDFW), regarding this application (attachment 1). Staff worked with CDFW to resolve their concerns through the revision of the Recommended Conditions of Approval accordingly (attachment 2).
2. Revised Recommended Conditions of Approval (information removed is shown with a strikethrough and information added in shown in **bold underlined** text).

1.

**Referral Comments and Email Correspondence with the California Department of Fish and
Wildlife**

From: [Bocast, Kalyn@Wildlife](mailto:Bocast.Kalyn@Wildlife)
To: [Vendor LACO 2](#)
Subject: RE: CDFW Referral Comments: Mermaid Springs, MBC, APP: 11102, CEQA-2017-0780, APN: 216-025-006, 216-025-016
Date: Tuesday, August 27, 2019 9:42:27 AM

Thank you, Max. I will place this email in our project file for future reference.

Best,

Kalyn Bocast
Environmental Scientist
Watershed Enforcement Team
California Department of Fish and Wildlife
619 2nd Street
Eureka, CA 95501
(707) 441-2077

From: Vendor LACO 2 <vendorlaco2@co.humboldt.ca.us>
Sent: Friday, August 23, 2019 1:51 PM
To: Bocast, Kalyn@Wildlife <Kalyn.Bocast@Wildlife.ca.gov>
Subject: RE: CDFW Referral Comments: Mermaid Springs, MBC, APP: 11102, CEQA-2017-0780, APN: 216-025-006, 216-025-016

Hello Kalyn,

These additions and corrections can be incorporated in to the conditions of approval for this project.

Thank you for your timely responses, and input!

Sincerely,

Max Hilken
Cannabis Services Division
707-441-2623

From: Bocast, Kalyn@Wildlife <Kalyn.Bocast@Wildlife.ca.gov>
Sent: Thursday, August 22, 2019 9:14 AM
To: Vendor LACO 2 <vendorlaco2@co.humboldt.ca.us>
Subject: RE: CDFW Referral Comments: Mermaid Springs, MBC, APP: 11102, CEQA-2017-0780, APN: 216-025-006, 216-025-016

Hello Max,

Thank you for that information.

CDFW requests that the recommendations outlined in the Biological Resources Assessment also be incorporated as conditions of project approval.

In addition, CDFW requests a correction in the monofilament/synthetic netting condition outlined below. Our standard requests includes the prohibition of monofilament netting for the purpose of erosion control **and cannabis cultivation** as it most often ends up being cut into small pieces and discarded into the environment uncontained, or stored in the open air where animals may become entangled and perish (see photo attached). It has been a rare site to see an alternative method of disposal/storage of this material and as such, CDFW makes this recommendation on all cannabis project applications.

Please let me know if these requests can be accommodated.

Thank you,

Kalyn Bocast
Environmental Scientist
Watershed Enforcement Team
California Department of Fish and Wildlife
619 2nd Street
Eureka, CA 95501
(707) 441-2077

From: Vendor LACO 2 <vendorlaco2@co.humboldt.ca.us>

Sent: Wednesday, August 21, 2019 3:41 PM

To: Bocast, Kalyn@Wildlife <Kalyn.Bocast@Wildlife.ca.gov>

Subject: CDFW Referral Comments: Mermaid Springs, MBC, APP: 11102, CEQA-2017-0780, APN: 216-025-006, 216-025-016

Kalyn,

Thank you for your comments. This project is scheduled for the Planning Commission on September 5th. Please see my response below:

1. Attached please find the Registered Foresters Report indicating:
2. Attached please find the County Cultivation Area Verification for this project which found existing cultivation utilizing imagery from August of 2018 that supports 16,450, as such the application has been updated to reflect 16,450 going forward.
3. Attached please find the Biological Resource Assessment in which the biologist believes the

A.C. is incorrectly mapped and should be located further west than currently mapped. Additionally the Bio Assessment includes justification for relocation of cultivation areas A and B (areas nearest the mapped A.C.) to open space located in the southeastern portion of the parcel where cultivation areas C and D currently reside (additionally included a Relocation Justification Letter from TRC).

4. A condition of approval stipulates: Any proposed significant construction shall occur outside of the critical nesting period for Spotted Owls, March 1st to July 9th. If any operations, beyond typical maintenance and cultivation activities, and with the potential to disturb Spotted Owls are proposed during the critical nesting period, Spotted Owl surveys should be conducted per specification outline in the Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls. Surveys should be conducted Per Section 9.0, Surveys for Disturbance Only Projects.
5. Attached please find the most up to date Site Plan which includes a topo base map and has additional clarification on mapped water ways (P-1 and P-4 for this project)

Regarding requested additional items to be incorporated as conditions of Project Approval:

1. A condition of approval stipulates: The applicant shall not use any erosion control measures that contain synthetic (e.g. plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without weaves.
2. A condition of approval stipulates: All trash and food waste shall be stored in animal proof containers and secured away from human habitation areas and disposed off-site regularly. Photographic evidence detailing the installation of animal proof containers submitted to the Humboldt County Planning Department will satisfy this condition.
3. A condition of approval stipulates:
 - a. The applicant shall comply with the attached CDFW Bullfrog Management Plan (Exhibit A). Reporting requirements shall be submitted to the Planning Department and the California Department of Fish and Wildlife at 619 Second Street, Eureka, CA 95501, no later than December 31 of each year.
 - b. No fish stocking shall be permitted without written permission from the California Department of Fish and Game pursuant to Section 6400 of the Fish and Game Code.

Additional relevant conditions (included in the staff report) due to proximity of the NSO as mentioned in request number 3:

1. The applicant shall construct noise containment structures for all generators used on the parcel. The applicant shall obtain all required building permits for such structures. The applicant shall maintain generator and fan noise at or below 50 decibels at the edge of the clearing or 100 feet, whichever distance is closer. This will satisfy the auditory disturbance guidance prepared by the U.S. Fish and Wildlife (USFS), California Fish and Wildlife (CDFW) and Department Policy Statement No. 16-005 to minimize impacts to the Northern Spotted Owl and Marbled Murrelet. All generators must be located on stable surfaces with a minimum 200-foot buffer from Class I and Class II streams, per the requirements of CDFW. No mixed-light is authorized by this permit until the applicant can be demonstrated to compliance with this standard.

All other information has been included as ongoing operational conditions and/or conditions of approval. Please let me know if you have further concerns.

Sincerely,

Max Hilken
Cannabis Services Division
707-441-2623



Applicant: Mermaid Springs, MBC		Date: 8/19/19	
APPS No.: 11102	APN: 216-025-009, 216-025-016	DFW CEQA No.: 2017-0780	Case No.: CUP16-149
<input checked="" type="checkbox"/> Existing	Proposed: <input checked="" type="checkbox"/> Outdoor: 38,100 ft ²		

Thank you for referring this application to the California Department of Fish and Wildlife (CDFW) for review and comment.

CDFW offers the following comments on the Project in our role as a Trustee and Responsible Agency pursuant to the California Environmental Quality Act (CEQA; California Public Resource Code Section 21000 *et seq.*). These comments are intended to assist the Lead Agency in making informed decisions early in the planning process.

Please provide the following information prior to Project Approval: (*All supplemental information requested shall be provided to the Department concurrently*)

- Aerial imagery analysis suggests that grading and tree removal has occurred on the Project parcel(s), following the CEQA baseline, for the purpose of constructing two ponds for cannabis cultivation irrigation. Please provide evidence of one or more of the following: a valid grading permit or a less-than-3-acre conversion exemption or timberland conversion permit, approved by CAL-FIRE. If grading was conducted without proper permits, CDFW may recommend remediation of impacted area, in whole or part, and/or mitigation.
- Aerial Imagery analysis suggests the cultivation area(s) have been expanded following the CEQA baseline. CDFW requests, prior to Project approval, a copy of the County Cannabis Area Assessment (CAV) and that the applicant provide substantial evidence, of existing cannabis on the parcel, prior to the cutoff date, or that the application be reconsidered for Project approval.
- The proposed Existing Project may have a potentially significant adverse effect on biological resources, specifically Northern Spotted Owl (*Strix occidentalis caurina*; NSO). Consistent with CEQA Guidelines, Section 15380, Northern Spotted Owl (NSO) has been identified as a threatened species pursuant to the federal Endangered Species Act (16 U.S.C. § 1531 *et seq.*) and under the California Endangered Species Act (Fish & G. Code, § 2050 *et seq.*) qualifies it as an endangered, rare, or threatened species under CEQA. The proposed project (existing) includes cultivation of “Outdoor” cannabis, partially in greenhouses, and an ancillary artificially lit nursery space **within 1,000 ft of a documented NSO Activity Center (AC)**. Artificial light may disrupt nocturnal foraging and nesting of NSO through disorientation as well as decreased activity of prey species (Brown *et al.* 1988, Longcore and Rich 2004, 2016). In addition to artificial light, this project may have adverse impacts to NSO from noise disturbance. Noise from road use, greenhouse fans, generators, and other equipment may disrupt hunting of NSO, which primarily use hearing to hunt. Also, exposure to vehicle noise has been shown to increase stress hormone levels in NSO, which was particularly evident in males during times when they were exclusively responsible for feeding their mates and nestlings (Hayward *et al.* 2011). Provided this information, CDFW requests the following:
 - That cultivation methods, including ancillary nursery cultivation, consist of full-sun outdoor methods only. (i.e. prohibition of operation related greenhouse structures, generators, lights, and fans).

- The construction of noise containment/dampening structures for all generators and fans on parcel; noise released shall be no more than 55 decibels (Barber et al. 2009) measured from 100 ft or edge of habitat whichever is closer. CDFW further requests, a noise attenuation monitoring and management plan for this activity within thirty-days, following permit approval by the Humboldt County Planning Commission.
 - That security lighting (if applicable) be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed. CDFW further requests, a light attenuation monitoring and management plan for this activity within thirty-days, following execution of the final permit.
 - That additional timber removal be prohibited within 150 ft of the designated cultivation sites.
 - CDFW seeks clarification from Humboldt County Planning Department regarding the outcome of these requests.
- If additional ground disturbing activities are proposed, CDFW requests protocol level surveys, conducted by a qualified botanist, for any California Rare Plant Ranked Species that may be present within 200 feet of the proposed project site. Surveys should be conducted in order to identify and establish buffers for any sensitive natural communities, such as wetlands, springs, seeps, and riparian areas, or plants with a State Rare Plant Rank of 1 or 2. CDFW databases such as the California Natural Diversity Database (CNDDDB), and the Biogeographic Information and Observation System (BIOS), can be used as scoping tools for minimum baseline information regarding sensitive biological resources within the 7.5-minute quadrangle and all adjoining quadrangles. Biological, botanical, and/or wetland delineation surveys should be conducted by a qualified biologist with appropriate training. Botanical surveys should follow the protocol in CDFW's 2009 "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities" (See: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline=1>)
- Include a topographic map that identifies all surface water, wetlands, or other sensitive habitats onsite and the appropriate buffer distances for each. The current map available for this project (and operations plan) fails to identify several watercourses and associated Streamside Management Area (SMA) setbacks. Aerial imagery suggests that a portion of the cultivation sites may occur within the SMA.

If the County elects to move this Project forward to hearing, CDFW requests the following additional items be incorporated as conditions of Project approval:

- To minimize the risk of wildlife entrapment, CDFW requests, as a condition of Project approval, the prohibition of synthetic netting (e.g., plastic or nylon) including photo or biodegradable plastic netting for the purpose of erosion control and/or cultivation operations. CDFW recommends that alternatives such as geotextiles, fiber rolls, and other erosion control measures be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
- The environmental impacts of improper waste disposal are significant and well documented. CDFW requests, as a condition of Project approval, that all refuse be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.

- ☒ That all imported soil located onsite be fully contained and setback a minimum of 150ft from watercourses and/or wet areas; and that all discarded soil and trash present onsite be removed and properly disposed of at a waste management facility.
- ☒ CDFW requests, as a condition of Project approval, all generators and associated fluids be relocated to stable surfaces with a minimum 150 ft buffer from streams (measured horizontally from the outer edge of the riparian or top of bank, whichever is greater).
- ☒ The referral materials state that there are existing ponds designated as water sources for this project. CDFW requests:
 - That the applicant comply with the attached CDFW Bullfrog Management Plan (**Exhibit A**). Reporting requirements shall be submitted to CDFW at 619 2nd Street, Eureka, CA 95501, no later than December 31 of each year.
 - That fish stocking be prohibited without written permission from the Department pursuant to Section 6400 of the Fish and Game Code.
- ☒ The applicant has secured a Final Lake or Streambed Alteration Agreement (1600-2017-0390-R1).
- ☒ This project has the potential to affect sensitive fish and wildlife resources such as Northern Spotted Owl (*Strix occidentalis caurina*), Foothill Yellow-legged Frog (*Rana boylei*), Pacific Giant Salamander (*Dicamptodon tenebrosus*), Southern Torrent Salamander (*Rhyacotriton variegatus*), Northwestern Salamander (*Ambystoma gracile*), Rough-skinned Newt (*Taricha granulosa*), Northern Red-legged Frog (*Rana aurora*), Boreal Toad (*Anaxyrus boreas boreas*), and amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

Thank you for the opportunity to comment on this Project.

Sincerely,

California Department of Fish and Wildlife
619 2nd Street
Eureka, CA 95501

References

- Barber, J. R., K. R. Crooks, and K. M. Fristrup. 2009. The costs of chronic noise exposure for terrestrial organisms. *Trends in Ecology and Evolution* 25:180–189.
- Brown, J. S., B. P. Kotler, R. J. Smith, and W. O. Wirtz II. 1988. The effects of owl predation on the foraging behavior of Heteromyid rodents. *Oecologia* 76:408–415.
- Franklin, A. B., P. C. Carlson, A. Rex, J. T. Rockweit, D. Garza, E. Culhane, S. F. Volker, R. J. Dusek, V. I. Shearn-Bochsler, M. W. Gabriel, and K. E. Horak. 2018. Grass is not always greener: rodenticide exposure of a threatened species near marijuana growing operations. *BMC Research Notes* 11:1–8.
- Gabriel, M. W., L. V. Diller, J. P. Dumbacher, G. M. Wengert, J. M. Higley, R. H. Poppenga, and S. Mendia. 2018. Exposure to rodenticides in Northern Spotted and Barred Owls on remote forest lands in northwestern California: evidence of food web contamination. *Avian Conservation and Ecology* 13:art2.
- Hayward, L. S., A. E. Bowles, J. C. Ha, and S. K. Wasser. 2011. Impacts of acute and long-term vehicle exposure on physiology and reproductive success of the northern spotted owl. *Ecosphere* 2:art65.
- International Dark-Sky Association (IDA) 2018.
- Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.
- National Drug Intelligence Center [NDIC]. 2007. Domestic cannabis cultivation assessment 2007. United States Department of Justice, Washington, D.C., USA.

EXHIBIT A.

BULLFROG MONITORING AND MANAGEMENT PLAN FOR CEQA-2017-0780-R1

GENERAL BULLFROG INFORMATION

The American bullfrog (*Lithobates catesbeianus* = *Rana catesbeiana*); hereafter bullfrog, is an invasive non-native species in California that poses a significant threat to California's native fish and wildlife resources. Bullfrogs were introduced in California over 100 years ago from eastern parts of the United States as a food supply, but have since caused substantial ecological consequences. Bullfrogs are considered highly invasive and are well documented to prey upon a variety of fish and wildlife species, including some that are rare, threatened, and endangered. Human modifications to the environment provide favorable condition to bullfrogs such as artificially created agricultural ponds, canals and ditches where warm still water occurs. As a result, bullfrogs have spread throughout California.

Efforts to control bullfrogs have been met with varying degrees of success because: 1) bullfrogs can be difficult to detect and go dormant from fall through winter, 2) bullfrogs often take cover in difficult areas to manage (e.g. dense vegetation), 3) they can travel long distances to colonize and re-colonize areas, 4) they have high reproductive output, 5) they are weary and readily flee perceived threats, and 6) they can survive physical trauma remarkably well. CDFW scientific staff recognizes there is an urgent and immediate need to develop improved bullfrog management strategies to protect California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public. Public support and implementation of bullfrog control in California is an important conservation strategy that will help protect natural resources for future generations.

MONITORING

The Project reservoir(s) shall be monitored for bullfrog presence on an annual basis with a minimum of two total surveys, no less than two weeks apart, throughout the months of May-July

- All pond survey efforts must be made by a person knowledgeable in bullfrog identification (see Appendix A for reference photos);
- Survey efforts shall include listening for bullfrog calls and slowly walking the complete perimeter of the pond at night* (dusk or later) while shining a flashlight to detect movement and eye-shine

If bullfrogs are not detected upon completion of two total surveys, or at any other time of the year incidentally, removal efforts are not required that year.

*Day time monitoring can also be conducted to aid detection but is not required under this plan.

SUCCESS CRITERIA

The level of effort needed to successfully manage bullfrog populations varies with infestation levels. This plan shall be considered successful if sufficient effort is provided to prevent adult bullfrogs from reproducing in the reservoir(s) each year, and no bullfrog life-stages can be detected. Bullfrogs are

capable of traveling long distances over-land, and on-going efforts will be required to ensure dispersing bullfrogs do not colonize the reservoir(s) at a future time.

OPTIONS FOR MANAGEMENT

Two removal methods may be employed for controlling bullfrogs under this plan and include:

- Manual direct removal
- Reservoir de-watering (Hydro-modification)

Implementing both reservoir de-watering and manual direct removal is currently believed to be the most effective method of managing bullfrog infestations. For reservoirs that are heavily infested with juvenile bullfrogs and/or tadpoles, reservoir dewatering may be necessary to break the bullfrog's life cycle and prevent on-going reproduction. Prior to conducting reservoir dewatering activities, please coordinate with CDFW Environmental Scientist Kalyn Bocast by phone at (707) 441-2077 or via email at kalyn.bocast@wildlife.ca.gov.

Direct Removal

All direct removal efforts must be made by a person knowledgeable in bullfrog identification.

- Removal efforts must occur during, but are not be limited to the active/breeding season, occurring May – July;
- A minimum of **two** efforts throughout the season are considered necessary;
- Direct removal efforts are typically most effective when conducted at night with use of lights but can also be conducted during the day;
- Direct removal must include working the entire perimeter of the reservoir;
- A rubber raft or small boat may be necessary to successfully remove some individuals;
- A team of two individuals or more is often helpful, one person for shining lights and/or operating a boat and the other person to perform removal efforts;
- Bullfrog tadpoles must be removed and dispatched and must not be relocated or kept as pets.

Management Authorization

Take of bullfrogs is specifically allowed in the California Code of Regulations (CCR), Title 14 (T-14) section 5.05(a)(28), under the authority of a sport fishing license. There is no daily bag limit, possession limit or hour restriction, but bullfrogs can only be taken by hand, hand-held dip net, hook and line, lights, spears, gigs, grabs, paddles, bow and arrow or fish tackle.

Alternatively, FGC Section 5501 allows CDFW, as limited by the commission, to issue a permit to destroy fish that are harmful to other wildlife. The regulations have addressed this under Section CCR T-14 226.5 Issuance of Permits to Destroy Harmful Species of Fish in Private Waters for Management Purposes. This allows the CDFW to issue free permits to destroy harmful aquatic species by seining and draining.

Pond Dewatering

Pond dewatering may be appropriate if the reservoir can be successfully dewatered without adversely affecting stream resources. Careful planning and coordination with CDFW, is necessary to ensure potential impacts to stream resources can be addressed, prior to commencing with pond draining. Discharge of polluted water to waters of the state may require permitting from other agencies with permitting authority, such as the Regional Water Quality Control Board.

In general, bullfrog tadpoles require two years to develop into frogs, whereas native amphibians only require one year. Therefore, draining a reservoir every year is intended to interrupt bullfrog tadpole development, dramatically decrease bullfrog populations and allow for reduced efforts as a measure of adaptive management. Typically in Northern California, reservoir draining should occur in September through October to avoid impacts to sensitive native amphibian and fishery resources. While draining occurs, direct removal efforts should be employed as described above if possible.

REPORTING

A written log shall be kept of monitoring and management efforts and shall be provided to CDFW **each year** by December 31. The written log shall include: 1) date and time of each monitoring and management effort, 2) approximate number of each bullfrog life stage detected and/or removed per effort, and 3) amount of time spent for each monitoring and management effort.

APPENDIX A. BULLFROG REFERENCE PHOTOS



This is a photo of a Bullfrog tadpole. (Photo taken by Mike van Hattem).



The photos shown in this Appendix demonstrate a medium sized adult bullfrog that was removed from Ten Mile Creek, Mendocino County. Note the bullfrog has a large tympanum, (circular ear drum shown with an arrow) and **does not** have distinct ridges along its back (dorsolateral folds). Photo taken by Wes Stokes.



The bullfrog has somewhat distinct mottling and **the underside of the bullfrogs hind legs are not shaded pink or red.**

ATTACHMENT 2

****Revised Recommended Conditions of Approval**

APPROVAL OF THE CONDITIONAL USE PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE PROVISIONAL CANNABIS CULTIVATION PERMIT CAN BE FINALIZED.

1. Within 60 days of the effective date of project approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #2 –15. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
2. The applicant shall secure permits for all unpermitted grading and structures 1,200-square-foot metal building, eighteen (18) 640-square-foot hoop houses, one 1,088-square-foot greenhouse, and one 160-square-foot metal shipping container related to the cannabis cultivation and other commercial cannabis activity. The plans submitted for building permit approval shall be consistent with the project description and approved project site plan. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
3. The applicant shall secure the approval of the Division of Environmental Health for the on-site sewage disposal system showing it can accommodate the proposed use. A letter from those agencies indicating approval has been issued will satisfy this condition. The applicant shall provide receipts of the use of portable toilets and handwashing stations for cultivation staff, or demonstrate the existing septic system serving the residence is adequate for the operators and up to three (3) family members. A letter from the Division of Environmental Health (DEH) indicating approval has been issued will satisfy this condition.
4. The access road shall be ~~paved~~ **rocked** for a minimum width of 20 feet and a length of 50 feet where it intersects Bell Springs Road. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.
5. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding any hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
6. The applicant shall implement all corrective actions detailed within the Water

Resource Protection Plan developed for the parcel, prepared pursuant to Tier 2 enrollment under the North Coast Regional Water Quality Control Board Cannabis Waste Discharge Regulatory Program, including those measures later determined necessary during annual and periodic site inspections in accordance with the monitoring element. A copy of the reporting form portion of the Mitigation and Reporting Program (MRP) shall be submitted annually to the Planning and Building Department concurrent with the submittal to the RWQCB. A letter or similar communication from the RWQCB verifying that all of their requirements have been met by the listed dates or the applicant has proven to the satisfaction of the RWQCB or the Third-Party Consultant verifying that all the requirements in the MRP have been met will satisfy this condition. [After July 31, 2019, plans and reporting shall conform to the Cannabis Cultivation Policy and Cannabis General Order adopted October 17, 2017, by the State Water Board.]

7. The applicant shall abide by the final Lake and Streambed Alteration Agreement for the two points of diversion utilized for domestic use onsite. The LSAA shall be amended to include the culvert maintenance described by the WRPP and Restocking Plan for the access road to cultivation areas A and B that were not included in Notification NO. 1600-2017-0390-R1. If the existing agreement cannot be amended, the applicant shall secure and adhere to a second agreement with CDFW for the additional maintenance. A letter or copy of the amended agreement will satisfy this condition.
8. The applicant shall submit a *Small Irrigation Use Registration* or other application for appropriative rights to the Division of Water Rights, State Water Resources Control Board and obtain an appropriative right for storage of diverted water for domestic use. A letter or similar communication, such as a copy of the Right to Divert and Use Water, from the State Water Resources Control Board verifying that this requirement has been met will satisfy this condition.
9. The Applicant shall agree to use a water meter to demonstrate that there is sufficient water supply to meet the demands of the project without having to rely on surface water diversion during the summer months. The Applicant shall install additional water storage tanks if needed. As part of the annual inspection, the applicant shall present water use records showing water use for the year broken down by month. The water use for cultivation is limited to the amount of water available in storage tanks.
10. The applicant shall demonstrate the driveway and emergency vehicle turn around conform with the Humboldt County Code Section 3112-12, the Fire Safe Regulations. The applicant shall be responsible for implementing any necessary improvements to bring the driveway and emergency vehicle turn around into compliance. A letter from a qualified engineer shall satisfy this requirement.
11. Prior to issuance of any building or construction permits a revised site plan shall be prepared by the applicant and reviewed and approved by the Planning Division showing:
 - a) Adequate off-street parking, and
 - b) Compliance with emergency vehicle access requirements.

12. The applicant shall contact the local fire service provider [Palo Verde VFC] and furnish written documentation from that agency of the available emergency response and fire suppression services and any recommended project mitigation measures. Mitigation measures shall be incorporated into the project, if applicable. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.
13. All mixed light cultivation and activities shall comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare (BUG). International Dark Sky Association standards exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed. No mixed-light is authorized by this permit until the structures and greenhouses can be demonstrated to comply with this standard.
14. The applicant shall construct noise containment structures for all generators used on the parcel. The applicant shall obtain all required building permits for such structures. The applicant shall maintain generator and fan noise at or below 50 decibels at the edge of the clearing or 100 feet, whichever distance is closer. This will satisfy the auditory disturbance guidance prepared by the U.S. Fish and Wildlife (USFS), California Fish and Wildlife (CDFW) and Department Policy Statement No. 16-005 to minimize impacts to the Northern Spotted Owl and Marbled Murrelet. All generators must be located on stable surfaces with a minimum 200-foot buffer from Class I and Class II streams, per the requirements of CDFW. No mixed-light is authorized by this permit until the applicant can be demonstrated to compliance with this standard.
15. The property owner shall execute and file with the Planning Division the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.
16. Any proposed significant construction shall occur outside of the critical nesting period for Spotted Owls, March 1st to July 9th. If any operations, beyond typical maintenance and cultivation activities, and with the potential to disturb Spotted Owls are proposed during the critical nesting period, Spotted Owl surveys should be conducted per specification outline in the Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls. Surveys should be conducted Per Section 9.0, Surveys for Disturbance Only Projects.

17. The applicant shall not use any erosion control measures or cannabis cultivation materials that contain synthetic (e.g. plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without weaves.
18. All trash and food waste shall be stored in animal proof containers and secured away from human habitation areas and disposed off-site regularly. Photographic evidence detailing the installation of animal proof containers submitted to the Humboldt County Planning Department will satisfy this condition.
19. The applicant shall comply with the attached CDFW Bullfrog Management Plan (Exhibit A). Reporting requirements shall be submitted to the Planning Department and the California Department of Fish and Wildlife at 619 Second Street, Eureka, CA 95501, no later than December 31 of each year.
20. No fish stocking shall be permitted without written permission from the California Department of Fish and Game pursuant to Section 6400 of the Fish and Game Code.
21. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
22. The applicant shall abide by the recommendations outlined in the attached Biological Resource Assessment (Attachment 4). Should any significant vegetation removal or habitat alteration be planned a springtime floristic (botanical) surveys for rare plants before conversion or cultivation occurs, if within the nesting bird season (March 1 –August 31) a nesting bird survey shall additionally be performed and both reports submitted to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
23. The applicant shall submit a revised and consolidated Site Plan specific to this project within 30 calendar days from date of approval to the Humboldt County Planning Division, 3015 "H" Street, Eureka, that includes clear depictions and labeling of restoration (14,343-square-feet) and relocation (11,520-square-feet) areas, including the layout of greenhouses to be set at the relocation site with dimensions, area, and setback distances shown.

Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project:

1. All components of the project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Changes shall require modification of

this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan.

2. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MCRSA, as applicable to the permit type.
3. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort towards compliance can be shown within the two years following the issuance of the provisional clearance or permit, The Planning Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow for additional time to meet the outstanding requirements.
4. Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MCRSA, and regulations promulgated thereunder, as soon as such licenses become available.
5. Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
6. Confinement of the area of cannabis cultivation, processing, manufacture or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any School, School Bus Stop, Church or other Place of Religious Worship, or Tribal Cultural Resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
7. Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
8. Comply with the terms of any applicable Streambed Alteration (1600) Permit obtained from the California Department of Fish & Wildlife.
9. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
10. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.

11. Pay all applicable application and annual inspection fees.
12. The noise produced by a generator used on an emergency-only basis for cannabis drying, curing, and processing shall not be audible by humans from neighboring residences. The decibel level for generators measured at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. Under these guidelines, generator noise may not exceed 50dB as measured at 100 feet from the generator or at the edge of the nearest Marbled Murrelet or Spotted Owl habitat, whichever is closer.
13. Storage of Fuel - Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's CUPA program, and in such a way that no spillage occurs.
14. The Master Log Books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
15. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).
16. The operation shall participate in the Medical Cannabis Track and Trace Program administered by the Humboldt County Agricultural Commissioner, when available.

Performance Standards for Cultivation and Processing Operations

17. Pursuant to the MCRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
18. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
19. Cultivators engaged in processing shall comply with the following Processing Practices:
 - i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.

- iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
20. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
- I. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - (a) Emergency action response planning as necessary;
 - (b) Employee accident reporting and investigation policies;
 - (c) Fire prevention;
 - (d) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - (e) Materials handling policies;
 - (f) Job hazard analyses; and
 - (g) Personal protective equipment policies, including respiratory protection.
 - II. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - (a) Operation manager contacts;
 - (b) Emergency responder contacts;
 - (c) Poison control contacts.
 - III. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
 - IV. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
21. All cultivators shall comply with the approved Processing Plan as to the following:
- I. Processing Practices.
 - II. Location where processing will occur.
 - III. Number of employees, if any.
 - IV. Employee Safety Practices.
 - V. Toilet and handwashing facilities.
 - VI. Plumbing and/or septic system and whether or not the system is capable of handling increased usage.
 - VII. Drinking water for employees.
 - VIII. Plan to minimize impact from increased road use resulting from processing.
 - IX. On-site housing, if any.
22. Term of Commercial Cannabis Activity Conditional Use Permit. Any Commercial Cannabis Cultivation CUP issued pursuant to the CMMLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year

thereafter, unless an annual compliance inspection has been conducted and the permittee(s) and the permitted site have been found to comply with all conditions of approval.

23. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the CUP or permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a re-inspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request re-inspection or to cure any items of non-compliance shall terminate the Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to section 55.4.13.
24. Permit Renewals to comply with Updated Laws and Regulations. Permit renewal per Ongoing Condition of Approval #22 above is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
25. Acknowledgements to Remain in Full Force and Effect. Permittee Acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located will not support diversions for irrigation.
26. Permittee further acknowledges and declares that:
 - I. All commercial cannabis activity that I, my agents, or employees conduct pursuant to a permit from the County of Humboldt shall be solely for medical purposes and all commercial cannabis products produced by me, my agents, or employees are intended to be consumed solely by qualified patients entitled to the protections of the Compassionate Use Act of 1996 (codified at Health and Safety Code section 11362.5); and
 - II. All cannabis or cannabis products under my control, or the control of my agents or employees, and cultivated or manufactured pursuant to local Ordinance and the California Medical Marijuana Regulation and Safety Act will be distributed within the State of California; and
 - III. All commercial cannabis activity conducted by me, or my agents or employees pursuant to a permit from the County of Humboldt will be conducted in compliance with the California Medical Marijuana Regulation and Safety Act.

27. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements, and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
- a. Identifying information for the new Owner(s) and management as required in an initial permit application;
 - b. A written acknowledgment by the new Owner in accordance as required for the initial Permit application;
 - c. The specific date on which the transfer is to occur; and
 - d. Acknowledgement of full responsibility for complying with the existing Permit; and
 - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
28. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

Informational Notes:

1. Pursuant to Section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state of county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years of the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the Permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to section 314-55.4.13 of the CMMLUO.
2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"); except where the Compliance Agreement per Condition of Approval #1 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Conditions of Approval #23 of the On-Going Requirements /Development Restrictions, above.
3. If cultural resources are encountered during construction activities, the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code Section 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code Section 5097.98. Violators shall be prosecuted in accordance with Public Resources Code Section 5097.99.

4. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
5. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will send a bill to the Applicant for all staff costs incurred for review of the project for conformance with the conditions of approval. All Planning fees for this service shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
6. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. **Within three days of the effective date of permit approval**, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the NOE and will charge this cost to the project.
7. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions prior to release of building permit or initiation of use and at time of annual inspection. In order to demonstrate that all conditions have been satisfied, applicant is required to pay the conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.